IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5611/2006

Bramha Vidya Pathshala & Dharmashala – Vs. - Kabrasthan Committee & others.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : A.B.CHAUDHARI, J.
DATED : 31/07/2007

After hearing the learned counsel for the rival parties for quite sometime, Shri Mirza learned counsel drew my attention to proviso to Section 3 (9) of the Wakf Act, 1995 and contended that statutory remedy of revision is available which has not been availed of by the petitioner. Shri Kshirsagar, learned counsel for the petitioner vehemently argued that since petitioner was not a party to the original proceedings, the only remedy available to him is to make the grievance through the writ petition. Shri Deshpande, learned counsel for respondent

no.1 disputed the statement and submitted that the petitioner was not a party to the proceedings before the Wakf Board. Without entering into these disputed facts, it appears to me that under proviso to Sub-section 3 (9), remedy of revision is clearly provided even at the instance of **ANY** person aggrieved. Thus, even assuming that the petitioner was not made a party to the original proceedings, the petitioner can still take recourse by filing the revision in the light of the said proviso. At this stage, Shri Kshirsagar, learned counsel for the petitioner prayed for conversion of the writ petition into Civil Revision Application. The said request was objected to by the rival side. One of the grounds that was raised for objecting the said request was that the limitation for filing revision has already expired.

Having considered the submissions made by the counsel for the parties, in my opinion, the petitioner should be allowed to file revision as contemplated by proviso to Sub-Section (9) of Section 3 of the Wakf Act,

1995. The petitioner is at liberty to claim the condonation of delay in accordance with Section 14 of the Limitation Act, as the present petition was pending in this Court. This Court made an interim order on 20/11/06 protecting the petitioner. The same interim order shall continue for another four weeks from today. Petition disposed of. No order as to costs.

JUDGE

VMC